



BILLING CODE: 3510-DS-P

## DEPARTMENT OF COMMERCE

International Trade Administration

[A-583-856]

Certain Corrosion-Resistant Steel Products from Taiwan: Initiation of Anti-Circumvention Inquiry on the Antidumping Duty Order

AGENCY: Enforcement and Compliance, International Trade Administration, Department of Commerce.

### Summary

Based on available information, the Department of Commerce (Commerce) is self-initiating a country-wide anti-circumvention inquiry to determine whether imports of corrosion-resistant steel products (CORE), completed in Malaysia using hot-rolled steel (HRS) and cold-rolled steel (CRS) flat products manufactured in Taiwan, are circumventing the antidumping duty (AD) order on CORE from Taiwan.

DATES: Applicable [insert date of publication in the *Federal Register*]

FOR FURTHER INFORMATION CONTACT: Brendan Quinn at (202) 482-5848, AD/CVD Operations, Office III or Barb Rawdon at (202) 482-0474, Office of Policy, Enforcement and Compliance, International Trade Administration, U.S. Department of Commerce, 1401 Constitution Avenue, NW, Washington, DC 20230.

### SUPPLEMENTARY INFORMATION:

#### Background

On June 3, 2015, AK Steel Corporation, ArcelorMittal USA LLC, California Steel Industries, Inc., Nucor Corporation, Steel Dynamics, Inc., and United States Steel Corporation filed petitions seeking imposition of antidumping and countervailing duties on imports of CORE

from China, India, Italy, the Republic of Korea, and Taiwan.<sup>1</sup> Following Commerce's affirmative determination of dumping,<sup>2</sup> and the U.S. International Trade Commission's (ITC) finding of material injury,<sup>3</sup> Commerce issued an AD order on imports of CORE from Taiwan.<sup>4</sup>

#### Scope of the Order

The products covered by the *Order* are certain flat-rolled steel products, either clad, plated, or coated with corrosion-resistant metals (CORE). For a full description of the scope of the *Order*, see the "Scope of the Order," in the Appendix to this notice.

#### Prior Circumvention Finding

On August 2, 2018, pursuant to section 781(b) of the Act and 19 CFR 351.225(h), Commerce initiated an anti-circumvention inquiry on the *Order* to determine whether certain imports of CORE, completed in the Socialist Republic of Vietnam (Vietnam) using HRS and CRS flat products manufactured in Taiwan, were circumventing the *Order*.<sup>5</sup> Following the completion of the inquiry, on July 10, 2019, Commerce determined that imports of CORE completed in Vietnam using HRS or CRS manufactured in Taiwan were circumventing the *Order* and, therefore determined that such imports fall within the scope of the *Order*.<sup>6</sup>

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<sup>1</sup> See *Certain Corrosion-Resistant Steel Products from Italy, India, the People's Republic of China, the Republic of Korea, and Taiwan: Initiation of Less-Than-Fair-Value Investigations*, 80 FR 37228 (June 30, 2015); *Certain Corrosion-Resistant Steel Products from the People's Republic of China, India, Italy, the Republic of Korea, and Taiwan: Initiation of Countervailing Duty Investigations*, 80 FR 37223 (June 30, 2015).

<sup>2</sup> See *Certain Corrosion-Resistant Steel Products from Taiwan: Final Determination of Sales at Less Than Fair Value and Final Affirmative Determination of Critical Circumstances, in Part*, 81 FR 35313 (June 2, 2016).

<sup>3</sup> See *Certain Corrosion-Resistant Steel Products from China, India, Italy, Korea, and Taiwan; Determinations*, 81 FR 47177 (July 20, 2016); see also *Certain Corrosion-Resistant Steel Products from China, India, Italy, Korea, and Taiwan*, Inv. Nos. 701-TA-534-537 and 731-TA-1274-1278, USITC Pub. 4620 (July 2016) (Final) (hereinafter, *USITC CORE Report*).

<sup>4</sup> See *Certain Corrosion-Resistant Steel Products from India, Italy, the People's Republic of China, the Republic of Korea and Taiwan: Amended Final Affirmative Antidumping Determination for India and Taiwan, and Antidumping Duty Orders*, 81 FR 48390 (July 25, 2016) (*Order*).

<sup>5</sup> See *Certain Corrosion-Resistant Steel Products from the Republic of Korea and Taiwan: Initiation of Anti-Circumvention Inquiries on the Antidumping Duty and Countervailing Duty Orders*, 83 FR 37785 (August 2, 2018) (*Taiwan/Vietnam CORE Initiation*).

<sup>6</sup> See *Certain Corrosion-Resistant Steel Products from Taiwan: Affirmative Preliminary Determination of Anti-*

### Merchandise Subject to the Anti-Circumvention Inquiry

This anti-circumvention inquiry covers CORE completed in Malaysia using HRS or CRS manufactured in Taiwan and subsequently exported from Malaysia to the United States.

### Initiation of Anti-Circumvention Inquiry

Section 781(b)(1) of the Tariff Act of 1930, as amended (the Act) provides that Commerce may find circumvention of an AD or CVD order when merchandise of the same class or kind subject to the order is completed or assembled in a foreign country other than the country to which the order applies. In conducting anti-circumvention inquiries, under section 781(b)(1) of the Act, Commerce relies on the following criteria: (A) merchandise imported into the United States is of the same class or kind as any merchandise produced in a foreign country that is the subject of an antidumping or countervailing duty order or finding, (B) before importation into the United States, such imported merchandise is completed or assembled in another foreign country from merchandise which is subject to the order or merchandise which is produced in the foreign country that is subject to the order, (C) the process of assembly or completion in the foreign country referred to in section (B) is minor or insignificant, (D) the value of the merchandise produced in the foreign country to which the AD or CVD order applies is a significant portion of the total value of the merchandise exported to the United States, and (E) the administering authority determines that action is appropriate to prevent evasion of such order or finding.

In determining whether or not the process of assembly or completion in a third country is minor or insignificant under section 781(b)(1)(C) of the Act, section 781(b)(2) of the Act directs Commerce to consider: (A) the level of investment in the foreign country, (B) the level of research and development in the foreign country, (C) the nature of the production process in the

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*Circumvention Inquiry on the Antidumping Duty Order*, 84 FR 32864 (July 10, 2019) and accompanying Preliminary Decision Memorandum.

foreign country, (D) the extent of production facilities in the foreign country, and (E) whether or not the value of processing performed in the foreign country represents a small proportion of the value of the merchandise imported into the United States. However, no single factor, by itself, controls Commerce's determination of whether the process of assembly or completion in a third country is minor or insignificant.<sup>7</sup> Accordingly, it is Commerce's practice to evaluate each of these five factors as they exist in the third country, depending on the totality of the circumstances of the particular anti-circumvention inquiry.<sup>8</sup>

Furthermore, section 781(b)(3) of the Act sets forth additional factors to consider in determining whether to include merchandise assembled or completed in a third country within the scope of an antidumping and/or countervailing duty order. Specifically, Commerce shall take into account such factors as: (A) the pattern of trade, including sourcing patterns; (B) whether the manufacturer or exporter of the merchandise is affiliated with the person who, in the third country, uses the merchandise to complete or assemble the merchandise which is subsequently imported into the United States; and (C) whether imports of the merchandise into the third country have increased after the initiation of the investigation that resulted in the issuance of such order or finding.

We have analyzed the criteria above and from available information we determine, pursuant to section 781(b) of the Act and 19 CFR 351.225(b) and (h), that initiation of an anti-circumvention inquiry is warranted to determine whether certain imports of CORE, completed in Malaysia using HRS and CRS flat products manufactured in Taiwan, are circumventing the

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<sup>7</sup> See Statement of Administrative Action accompanying the Uruguay Round Agreements Act (SAA), H.R. Doc. No. 103-316 (1994) at 893.

<sup>8</sup> See *Uncovered Innerspring Units from the People's Republic of China: Final Affirmative Determination of Circumvention of the Antidumping Duty Order*, 83 FR 65626 (December 21, 2018), and accompanying Issues and Decision Memorandum at 4.

*Order*. For a full discussion of the basis for our decision to initiate this anti-circumvention inquiry, see the Anti-Circumvention Initiation Memo.<sup>9</sup> As explained in the Anti-Circumvention Initiation Memo, the available information warrants initiating this anti-circumvention inquiry on a country-wide basis. Commerce has taken this approach in a prior anti-circumvention inquiry, where the facts warranted initiation on a country-wide basis.<sup>10</sup>

Consistent with the approach in the prior anti-circumvention inquiry that was initiated on a country-wide basis, Commerce intends to issue questionnaires to solicit information from producers and exporters in Malaysia concerning their shipments of CORE to the United States and the origin of any imported HRS and CRS being processed into CORE. A company's failure to respond completely to Commerce's requests for information may result in the application of partial or total facts available, pursuant to section 776(a) of the Act, which may include adverse inferences, pursuant to section 776(b) of the Act.

#### Notification to Interested Parties

In accordance with 19 CFR 351.225(b), Commerce determines that available information warrants initiating an anti-circumvention inquiry to determine whether certain imports of CORE, completed in Malaysia using HRS and CRS flat products manufactured in Taiwan, are circumventing the *Order*. Accordingly, Commerce hereby notifies all parties on Commerce's

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<sup>9</sup> See Memorandum, "Certain Corrosion-Resistant Steel Products from Taiwan: Initiation of Anti-Circumvention Inquiry on the Antidumping Duty Order" (Anti-Circumvention Initiation Memo). This memo is a public document dated concurrently with, and hereby adopted by, this notice and on file electronically via ACCESS. Access to documents filed via ACCESS is also available in the Central Records Unit, Room B8024 of the main Department of Commerce building.

<sup>10</sup> See *Taiwan/Vietnam CORE Initiation*; see also *Carbon Steel Butt-Weld Pipe Fittings from the People's Republic of China: Initiation of Anti-Circumvention Inquiry on the Antidumping Duty Order*, 82 FR 40556, 40560 (August 25, 2017) (stating at initiation that Commerce would evaluate the extent to which a country-wide finding applicable to all exports might be warranted); *Certain Corrosion-Resistant Steel Products from the People's Republic of China: Initiation of Anti-Circumvention Inquiries on the Antidumping Duty and Countervailing Duty Orders*, 81 FR 79454, 79458 (November 14, 2016) (stating at initiation that Commerce would evaluate the extent to which a country-wide finding applicable to all exports might be warranted).

scope service list of the initiation of anti-circumvention inquiries. In addition, in accordance with 19 CFR 351.225(f)(1)(i) and (ii), in this notice of initiation issued under 19 CFR 351.225(b), we have included a description of the product that is the subject of this anti-circumvention inquiry (*i.e.*, CORE completed in Malaysia using HRS and CRS flat products manufactured in Taiwan), and an explanation of the reasons for Commerce's decision to initiate this anti-circumvention inquiry as provided above. Commerce will establish a schedule for questionnaires and comments on the issues in this inquiry.

In accordance with 19 CFR 351.225(l)(2), if Commerce issues preliminary affirmative determinations, we will then instruct U.S. Customs and Border Protection to suspend liquidation and require a cash deposit of the estimated antidumping duty, at the applicable rate, for each unliquidated entry of the merchandise at issue, entered or withdrawn from warehouse for consumption on or after the date of initiation of this inquiry. Commerce intends to issue its final determination within 300 days of the date of publication of this initiation, in accordance with section 781(f) of the Act and 19 CFR 351.225(f)(5).

This notice is published in accordance with section 781(b) of the Act and 19 CFR 351.225(f).

*Dated: August 12, 2019.*

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Jeffrey I. Kessler,  
Assistant Secretary  
for Enforcement and Compliance.

## Appendix

### Scope of the *Order*

The products covered by this *Order* are certain flat-rolled steel products, either clad, plated, or coated with corrosion-resistant metals such as zinc, aluminum, or zinc-, aluminum-, nickel- or iron-based alloys, whether or not corrugated or painted, varnished, laminated, or coated with plastics or other non-metallic substances in addition to the metallic coating. The products covered include coils that have a width of 12.7 mm or greater, regardless of form of coil (*e.g.*, in successively superimposed layers, spirally oscillating, etc.). The products covered also include products not in coils (*e.g.*, in straight lengths) of a thickness less than 4.75 mm and a width that is 12.7 mm or greater and that measures at least 10 times the thickness. The products covered also include products not in coils (*e.g.*, in straight lengths) of a thickness of 4.75 mm or more and a width exceeding 150 mm and measuring at least twice the thickness. The products described above may be rectangular, square, circular, or other shape and include products of either rectangular or non-rectangular cross-section where such cross-section is achieved subsequent to the rolling process, i.e., products which have been “worked after rolling” (*e.g.*, products which have been beveled or rounded at the edges). For purposes of the width and thickness requirements referenced above:

(1) where the nominal and actual measurements vary, a product is within the scope if application of either the nominal or actual measurement would place it within the scope based on the definitions set forth above, and

(2) where the width and thickness vary for a specific product (*e.g.*, the thickness of certain products with non-rectangular cross-section, the width of certain products with nonrectangular shape, etc.), the measurement at its greatest width or thickness applies.

Steel products included in the scope of this *Order* are products in which: (1) iron predominates, by weight, over each of the other contained elements; (2) the carbon content is 2 percent or less, by weight; and (3) none of the elements listed below exceeds the quantity, by weight, respectively indicated:

- 2.50 percent of manganese, or
- 3.30 percent of silicon, or
- 1.50 percent of copper, or
- 1.50 percent of aluminum, or
- 1.25 percent of chromium, or
- 0.30 percent of cobalt, or
- 0.40 percent of lead, or
- 2.00 percent of nickel, or
- 0.30 percent of tungsten (also called wolfram), or
- 0.80 percent of molybdenum, or
- 0.10 percent of niobium (also called columbium), or
- 0.30 percent of vanadium, or
- 0.30 percent of zirconium

Unless specifically excluded, products are included in this scope regardless of levels of boron and titanium.

For example, specifically included in this scope are vacuum degassed, fully stabilized (commonly referred to as interstitial-free (IF)) steels and high strength low alloy (HSLA) steels. IF steels are recognized as low carbon steels with micro-alloying levels of elements such as titanium and/or niobium added to stabilize carbon and nitrogen elements. HSLA steels are recognized as steels with microalloying levels of elements such as chromium, copper, niobium, titanium, vanadium, and molybdenum.

Furthermore, this scope also includes Advanced High Strength Steels (AHSS) and Ultra High Strength Steels (UHSS), both of which are considered high tensile strength and high elongation steels. Subject merchandise also includes corrosion-resistant steel that has been further processed in a third country, including but not limited to annealing, tempering, painting, varnishing, trimming, cutting, punching and/or slitting or any other processing that would not otherwise remove the merchandise from the scope of the investigation if performed in the country of manufacture of the in-scope corrosion resistant steel.

All products that meet the written physical description, and in which the chemistry quantities do not exceed any one of the noted element levels listed above, are within the scope of this *Order* unless specifically excluded. The following products are outside of and/or specifically excluded from the scope of this *Order*:

- Flat-rolled steel products either plated or coated with tin, lead, chromium, chromium oxides, both tin and lead (terne plate), or both chromium and chromium oxides (tin free steel), whether or not painted, varnished or coated with plastics or other non-metallic substances in addition to the metallic coating;
- Clad products in straight lengths of 4.7625 mm or more in composite thickness and of a width which exceeds 150 mm and measures at least twice the thickness; and
- Certain clad stainless flat-rolled products, which are three-layered corrosion-resistant flat-rolled steel products less than 4.75 mm in composite thickness that consist of a flat-rolled steel product clad on both sides with stainless steel in a 20%-60%-20% ratio.

The products subject to the *Order* are currently classified in the Harmonized Tariff Schedule of the United States (HTSUS) under item numbers: 7210.30.0030, 7210.30.0060, 7210.41.0000, 7210.49.0030, 7210.49.0091, 7210.49.0095, 7210.61.0000, 7210.69.0000, 7210.70.6030, 7210.70.6060, 7210.70.6090, 7210.90.6000, 7210.90.9000, 7212.20.0000, 7212.30.1030, 7212.30.1090, 7212.30.3000, 7212.30.5000, 7212.40.1000, 7212.40.5000, 7212.50.0000, and 7212.60.0000.

The products subject to the *Order* may also enter under the following HTSUS item numbers: 7210.90.1000, 7215.90.1000, 7215.90.3000, 7215.90.5000, 7217.20.1500, 7217.30.1530, 7217.30.1560, 7217.90.1000, 7217.90.5030, 7217.90.5060, 7217.90.5090, 7225.91.0000,



7225.92.0000, 7225.99.0090, 7226.99.0110, 7226.99.0130, 7226.99.0180, 7228.60.6000, 7228.60.8000, and 7229.90.1000.

The HTSUS subheadings above are provided for convenience and customs purposes only. The written description of the scope of the *Order* is dispositive.

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